

U P O N R E S U M I N G :

MS. EBERHARD: Good afternoon, Your Honour.

...MR. SCHIECK SPEAKS TO A BRIEF MATTER.

THE COURT: All right.

MS. EBERHARD: And....

THE COURT: Let us call for Andrea Armstrong,
please.

...PAGING ANDREA ARMSTRONG.

THE COURT: Thank you. Next witness for the
Crown?

MS. EBERHARD: If Ms. Mary Louise Green could
be paged, please?

...PAGING MARY LOUISE GREEN.

THE COURT: Just step up here, please.

MARY LOUISE GREEN: SWORN

THE COURT: You may stand or be seated,
however, you prefer,...

MARY LOUISE GREEN: Thank you.

THE COURT: ...Ms. Green, and you are allowed
to change your mind.

MARY LOUISE GREEN: Thank you.

THE COURT: Proceed.

Prosecution Witness 2

Testimony:

Mary Lou ?-GREEN

EXAMINATION IN-CHIEF BY MS. EBERHARD:

Q. Ms. Green, are you also known as another name?

A. Uh, I go by the name of Mary Lou.

Q. Okay. Thank you. Same last name, Green. Are you currently working, Ms. Green?

A. Yes, I work at Our Space Community Drop-In and I've been working there since it opened in December.

Q. December, 2000 and....

A. Eight.

Q. Do you have any - well, what is your - what is your role there when you work?

A. Um, my job is, uh, - we do a bit of everything. We do the cooking. We do counselling. Um, one of the skills that I was hired for, um, was expressive arts because I have a post diploma in expressive arts and I do art programs and such, um, with the clients and I clown and do a lot of things.

Q. Great. Were you working on February the 10th, 2009?

A. Yes.

Q. And you were at Our Space at - it's a drop-in centre?

A. Yes. It's a drop-in centre located at 217 Murray Street.

Q. Thank you.

A. We rent the basement of the Brock Mission.

Q. Did you observe anything unusual on that day?

A. Um, yes. Um, my co-worker and I were working and there was a girl at the computer and, even though I was facing partway to the other direction away from the

door, um, someone came in ranting and raving looking for someone and, uh, that sure caught my attention.

Q. And what - what demeanour did you observe that this person who walked in the door, what did they....

A. She was very angry.

Q. Okay.

A. Um, what really worried me was that she came with her two children and, um, was asking for a client of ours named Andrea - Rachel and, um, she was really angry.

Q. Okay. What did you observe after you hear this ranting from....

A. Um, to be honest, I did not see the assault. All I know, um, I partially saw Rachel go up to Andrea. Um, next thing I knew, um, Tami came out from the - our cubicle office and came out, um, because of what had happened. We both tried to separate, um, Andrea from Rachel and Tami took Rachel, as far as I can recall, into the washroom and I stayed outside, um, in the main room with Andrea and her two kids and she was - she continued to shout and continued to try to go to the washroom to get at Rachel.

Q. And when you say to "get at Rachel",....

A. Yeah, she kept sayin' that she wanted to hit her and, um, she - she tried getting - kept trying to get past me and her two children were really upset so to calm them done, I - we always have secrets in the door so I gave them a couple of toys, um, just sort of quiet them down but, um, Andrea kept going on and on that she wanted to go to the washroom so she could, um, confront - confront Andrea(sic).

Q. Did you - during this incident, did you ever see a black phone charger?

A. No. Um, I had heard about. Um, when Andrea came in, she was accusing Rachel of the fact that -

Tami
won't
testify
about
phone
charger
found
from
12-yr
old.

um, she accused Andrea of stealing her cell phone charger
but, um, the problem with that is, um, it did not happen at
the drop-in. Um, I can't say one way or the other but,
apparently, this had been an ongoing battle between the two
of them.

NOT
threatening
to
Kids did
not need
"CALMED
DOWN"

Q. Okay. Well, did you actually see
charger? Yes or no?

Was

A. No way.

concerned that
my children
witnessed

Q. Okay. You calm the kids down. T
happened after that?

A. Um, I went into the washroom to see
co-worker, Tami, and Rachel were doing and Rachel was
really upset, um, crying because she was pregnant and
afraid that, um, something might happen to the baby at
the same time, trying to keep - trying to prevent Andrea
going into the washroom. (left to have a smoke

get
NEVER
said I
wanted
to "HIT"
Rachel

Q. How many minutes was it - what - what
the time between when this incident occurred and when you
went into the bathroom?

MAKING
False
JUDGEMENT
based on her
own
background

A. Um, you know, in my mind and I'm not
great but I would assume it was probably 15, 20 minutes.

Q. And was - in your observation, was Ms.
Armstrong angry that whole time and....

Yet they
didn't call
911?

A. That whole time, she was just, um, - she
was ranting. She was screaming. She kept saying she wanted
to hit Rachel, um, and, again, I - I will really stress the
thing that most upset me because I came from an abusive home
was the fact that her two children witnessed their mother
going off on a tangent and, um, I - I truly felt that
had the capability that if she saw Andrea(sic) or was
near, um, - if Andrea saw Rachel and was to come near
that she would really slug her.

NOT
Relevant

BULL
SHIT

Q. Okay. After you went into the bathroom area, did you see Ms. Armstrong again?

A. Yes, I came out and, by this time, Andrea knew that, uh, that Rachel was not going to come out of the washroom, that it was not a safe place for her to be in the main hall so Andrea left, uh, and she took her children but the next thing I knew was that, um, one of the clients came in and said she was driving around the block....

THE COURT: Well, we are not....

MS. EBERHARD: Sorry.

THE COURT: That would be hearsa

Anyway,...

A. Uh,....

THE COURT: ...you received some information...

A. Yes. So I went out....

THE COURT: ...and then what happened next?

A. So I went out and checked and, sure enough, she was driving around the block, I guess, waiting for Rachel to come out.

MS. EBERHARD: Q. Okay. Well, is it fair to say we don't know why she was driving around...

A. No.

Q. ...the block...

A. No.

Q. ...but you observed her to drive...

A. Yeah.

Q. ...around the block? Okay. Thank you. And you provided a statement to the police?

A. Yes.

Q. Thank you. I have no further questions.

THE COURT: Thank you. Cross-examination.

BULLSHIT
I was @
POLICE
Station!
Reporting

ANDREA ARMSTRONG: Okay, hold on while I get my bearings here, please.

CROSS-EXAMINATION BY ANDREA ARMSTRONG:

5 Q. My first question is is what did you say to Constable Hatton at the warming room the night of the incident?

A. Basic....

Q. Do you remember what you said to him?

10 A. Um, as far as I recall, Rachel(sic) -- I told him that you had come into the warming room and had gone after, uh, Andrea(sic) and....

THE COURT: It is the other -- I am sorry, this is Andrea.

A. Oh, and had gone after Rachel.

15 ANDREA ARMSTRONG: Q. Uh-hmm.

A. I apologize for the screw-up.

THE COURT: It is all right.

A. I was very tired.

THE COURT: It is all right.

20 A. Um, that you had gone after Rachel and had caused problems in the drop-in and, uh, even though I didn't see you push Rachel, I had had to keep you out, um, from the washroom after she had gone in there.

25 ANDREA ARMSTRONG: Q. Why did I actually tell you -- ask you to go into the washroom? Do you remember the conversation we had?

A. You wanted her to come out.

30 Q. Do you not remember there's -- having me ask you to send someone in the washroom because I heard a noise and I knew she was hiding the cell phone charger because she knew it was stolen?

A. No, I don't recall that at all.

Q. Well, that conversation did happen
daughter did witness that.

MS. EBERHARD: The question, Your Honor

THE COURT: Next question.

ANDREA ARMSTRONG: Q. It says in the
officer's notebook that you said that Mom came in and hit
her, so were you just saying hearsay at that time or did you
honestly think at that time that I had hit somebody?

A. Um, I honestly - I honestly thought I
was looking, um, partially away. Uh, I knew something had
happened, especially when Tami came running out.

Q. When Tami came running out of where?

A. Running out of the - the cubicle office -
separate you from Rachel.

Q. In your statement, you said you were
working, um, with Rachel within about one foot of the
computer?

A. Yes.

Q. You are an artist, right, so you would
have very good concept of spatial reasoning and measure

A. Uh, to be honest, I'm an expressive artist
who - who does all kinds of things. Um, I judge about a
foot. Mind you, I have learning disabilities which distort
to some extent, my spatial abilities but I, um, feel that
was approximately about one foot away from Rachel as if she
was sitting here at the computer which faces this way and
I...

THE COURT: Were you....

A. ...was partially looking this way, but I
was approximately a foot away from her.

ANDREA ARMSTRONG: Q. Okay. So you were

"honestly thought
it" LIED to
POLICE!

Admits to
looking
partially
away.

NO NEED
to separate

"Learning
Disabilities
DISTORT
abilities"

within about a foot?

A. Yes. I - I figure...

Q. In any way direction...

A. ...about that much.

5 Q. ...and you didn't feel anything? You
didn't hear anything and you didn't see anything?

A. I sure heard you yelling. I knew that
something had happened.

10 Q. I didn't yell until after she grabbed the
bag...

THE COURT: Well,...

ANDREA ARMSTRONG: Q. ...from me.

THE COURT: ...just a moment. Just a moment.

A. Um,....

ANDREA ARMSTRONG: Sorry.

15 THE COURT: If you are going to evidence from
there, it is not going to be accepted.

A. As - as I recall, Andrea, um, I heard you
yelling and shouting. I know that when you came into the
drop-in, right away the words you said was accusing Rachel of
20 having your cell phone charger...

ANDREA ARMSTRONG: Q. And you're saying...

A. ...and you went....

Q. ...that was before...

A. You went right up to her.

25 Q. And I spoke with her?

A. Yes.

Q. When I first came in....

A. Well, I wouldn't exactly call it speaking.
I would more less call it yelling and accusing her.

30 Q. What did I say to her?

A. That she had stolen your cell phone

charger and you wanted it back and for her to...

Q. Do you remember....

A. ...give it back.

Q. Do you remember what was said that caused

5 Rachel to open up her wallet and take out her hospital
bracelets to show them to everybody?

A. No, I don't recall that.

Q. Do you remember her taking out her
hospital bracelets and showing them?

10 A. No, I don't recall that.

Q. Okay. Do you remember if Tami was sitting
or standing in behind the office cubicle?

A. Um, as far as I recall, Tami was standing.

Q. And at what point did Tami go into the
woman's washroom?

15 A. Tami went to the woman's washroom after
and - well, to begin with, Tami had witnessed you pushing
Rachel and Rachel became - Rachel became really upset,
especially because she was pregnant and it was just after
that that Tami came running out and escorted, um, Rachel very
20 hurriedly into the washroom to get her away from you.

Q. Do you remember, at one point, I sat down
at the computer desk?

A. No.

Q. Do you remember at one point I went out
25 for a cigarette and came back in?

A. Um, yes, I do recall that.

Q. Was I, apparently, ranting and raving
then, as well?

A. Uh, you went out ranting and you came in
30 ranting.

Q. Doing....

the cig....

A. Whether you ranted when you out to smoke

Q. Was I not just....

A. Why you were....

Q. Was I not just calmly waiting for the police to come because I had...

A. No.

Q. ...called them, myself?

A. No, I wouldn't call it calm at all.

Q. Did you see any other type of physical contact between Rachel and myself, choke hold, wrist hold, tripping anybody, anything like that?

A. Um, no, I didn't but I don't think that's I don't, particularly, think that's relevant. It was enough that Tami saw you push her. Anything else would have been just adding one assault to another.

Q. Which way did, um, - did you see Rachel be pushed one way or the other during this incident?

A. No. My back was partially turned but, to be honest, Andrea, I trust, um,....

THE COURT: Okay, but where....

A. No, I did not see it. My....

THE COURT: All right.

A. ... - my co-worker staff saw it.

ANDREA ARMSTRONG: Q. Okay. Um, oh, at any time, did you see me with a wallet and a cell phone charger in my hand?

A. No.

Q. Did you see me with the bag in my hand at any time?

A. I believe, you had your purse.

Q. Did you hear what I said to Rachel when I

Just

assault
where's the
rest of
statement

Didn't
think NOT
seeing a
wrist hold
was relevant

states ...
to be honest
Andrea,
I trust

Enough that
Tami saw
you push
her - "!!!!"

If I had a
purse in my
hand how
did I grab
bag?

first came to speak to her at the computer?

A. Yes. You accused her of stealing your cell phone charger and you wanted it back.

5 Q. But you did not hear what she said that made her pull out her hospital bracelets...

A. No, I don't...

Q. ...or what I said to her?

A. ...recall that.

Q. Okay.

10 A. I don't recall that.

THE COURT: She did not see the hospital bracelet being pulled out.

A. To be honest....

THE COURT: No. No, do not add to it.

15 ANDREA ARMSTRONG: Q. Do you think it's the actions of an honest person to hide a cell phone charger?

THE COURT: That is for the court to decide.

Her opinion does not matter...

ANDREA ARMSTRONG: Sorry.

THE COURT: ...on that subject.

20 ANDREA ARMSTRONG: Um, in regards to her statement about my children witnessing, um, violence, I'd like to submit this letter from Children's Aid. I don't have a copy of it, sorry, closing my file.

25 THE COURT: Have you seen a copy of this?

MS. EBERHARD: Yes. She just showed me about five minutes ago and, in my respectful submission, it should not be - well....

THE COURT: It is not something to be presented to this witness?

30 MS. EBERHARD: Absolutely not.

THE COURT: I agree.

ANDREA ARMSTRONG: Not to that witness but to the court. I think it should be on the court record.

THE COURT: Well, we will see. Just stand it down for a defence...

ANDREA ARMSTRONG: Okay.

THE COURT: ... - part of the case. You can hand it back to her. Thank you, Madam Clerk.

ANDREA ARMSTRONG: I'd like to state that also in regards to her statement about my children that I do have full custody of my children and always have. Q. How many other people, uh, witnessed me threatening Ms. Carkner?

A. Um, in all honesty, Andrea, I do not recall. I was so....

THE COURT: There were other people present in the room?

A. Yes.

THE COURT: No, I gather....

A. Yes.

THE COURT:

ANDREA ARMSTRONG: Q. At....

THE COURT: You do not know whether - you do not know whether....

A. I don't know how....

THE COURT: You do not know how much...

ANDREA ARMSTRONG: Yeah.

A. I don't recall.

THE COURT: ...of what any of them saw.

A. I was too taken what has happening.

ANDREA ARMSTRONG: Q. At what time,

apparently, was I diving around the warming room? Was it 20 minutes after the incident? Had I gone and come back? Was it an hour later?

A. It was shortly after you left.

Q. Was it when I was out having a cigarette?

A. No. You had left the warming room with your children. Uh....

Q. Is this after I left to...

THE COURT: Oh, no,...

ANDREA ARMSTRONG: Q. ...go have...

THE COURT: ...let her....

ANDREA ARMSTRONG: Q. ...a cigarette?

THE COURT: Let her finish. She is working her through it. She had the warming room...

A. You....

THE COURT: ...with her children.

A. You had the warming room with your children and got in your car and then had proceeded to circle around.

ANDREA ARMSTRONG: Q. And how'd you know that I was doing that? Did you witness it?

A. Yes.

Q. What colour is my vehicle?

A. You know, I'm not very good at colours.

Q. Is my car a pickup truck, a motorcycle, a van, a four door Sedan, sports car?

A. I - I know it wasn't a sports car. Uh, I believe, it was a van.

Q. And how many times did you see this going around?

A. I don't recall the number of times but, at least, twice.

Q. Because at that moment, I was at the police station so I couldn't have...

THE COURT: Well,...

ANDREA ARMSTRONG: Q. ...been driving
5 around.

THE COURT: ...that is something you will be able to provide evidence on.

ANDREA ARMSTRONG: Q. Have you and Tami Taylor been discussing this incident at all at work or
10 outside of the court?

THE COURT: No, first of all, have the two of you been discussing it today since you came into the courtroom and you were ordered out until testimony?

A. I can honestly say, judge, that, uh, Tami
15 and I have not discussed it, only that we were - we - the only discussion we have had about this, uh, neither of us have been in court and, um, I told Tami I was very, uh, apprehensive because I had never been in court but, as far as discussing your case, no, because my statement and Tami's, we
20 saw two different viewpoints because of what happened. Tami saw one interaction. I saw another, so, um, we came at things from different points of view and we have other things about the drop-in to discuss, not you. This -um, to be honest, this has not been a conversation between us.

ANDREA ARMSTRONG: Q. Again, when you were
25 within that one foot of Rachel at the computer desk, um, do you not think that if she had been shoved either way within enough - with a - a force that if you were in a one foot area that you would have felt something happening? I'm just
30 wondering how it's possible that you could miss something like that in such a short period there.

A. You know, what? To be honest, Andrea, if I was looking at something or doing in another direction, um, it would be quite possible that I could have missed it.

Q. Did you not think it was suspicious when Rachel precariously climbed on a toilet to hide the, um, phone charger? Do you not think she went....

A. I did not witness that.

Q. Well, I....

A. I did not see a phone charger so I, certainly, did not think it would be - would be, um, - it doesn't apply. I never saw the cell phone charger.

Q. Okay,...

A. I didn't see...

Q. ...so, um,...

A. ...Rachel....

Q. ...it could have been possible that, um, it wasn't that she was running in there to be afraid but she was running in there to hide this item...

THE COURT: Well, that is...

ANDREA ARMSTRONG: Q. ...from me?

A. You know, what? She went in there because Tami escorted her in there to get away from you. That's what I witnessed.

Q. Is it not true that you asked Tami to go in after I asked you to go check after I heard the noise in the - in the bathroom...

A. I went to....

Q. ...and you stated to me that the - the windows were locked up and she couldn't get out the window? Wasn't it at that time...

A. You....

Q. ...Tami went in?

A. Um, as far as I recall, now, you asked me if there was any way that Rachel could escape from the bathroom window...

5 Q. Yes, that is what I asked you.

A. ...and I told you, no.

THE COURT: Do not interrupt the witness.
Let her....

A. I told you, no, and, um, that was more for your benefit because at that time when I went into the bathroom, Rachel was so upset, the fact that you had pushed her and this is what Tami witnessed, not myself,...

ANDREA ARMSTRONG: Q. So it's fair to say....

15 A. ...but I saw you ranting and yelling at Rachel. Rachel was so upset that she was sitting on the floor crying and Tami was comforting her. You know, what? They were both very upset. That had never happened in the drop-in before.

20 Q. And you did not witness them giggling and laughing in the office area...

A. They did not....

Q. ...while they were waiting for the police?

A. They, certainly, weren't laughing at what happened at the drop-in and I can assure you that. There was no laughing after you came in that morning.

25 Q. And, I guess, you wouldn't know that she out to a bar that night to celebrate, eh?

THE COURT: Well, now, have you got a witness on that? Did you bring a witness here to say that she was out at the bar?

30 ANDREA ARMSTRONG: No, I didn't think...

THE COURT: No?

ANDREA ARMSTRONG: ...I would need that one.

THE COURT: Well, then you should not have asked....

ANDREA ARMSTRONG: I've got enough witness fees and stuff.

THE COURT: You should not have added that little editorial comment. It is not part of the evidence.

ANDREA ARMSTRONG: Q. You - okay, but you don't think it's suspicious that someone who's worried about their baby would climb up on a toilet to hide something...

A. You know....

Q. ...in a very precarious....

A. You know what - what? I don't believe it was to hide anything but if I was pregnant and had someone going after me, you bet I would do anything to get away from that person if I had to jump on a counter, a toilet, or whatever...

Q. Isn't it true....

A. ...to protect my baby.

Q. Isn't it true that I was not trying to get into the bathroom, that when I heard that noise, I asked someone to go in and check if she was getting out the window?

A. No. You had asked...

ANDREA ARMSTRONG: Sorry, Your Honour,...

A. ...if there was a window.

ANDREA ARMSTRONG: ...that's contradictory evidence. What do I do with it?

THE COURT: I am sorry, but we will hear....

A. You had asked if there was a window and I later, I believe, told you that there was no way anybody could get out of that bathroom through a window or anything.

ANDREA ARMSTRONG: Q. But you stated earlier we didn't have that conversation and that that's not why Tami went in the bathroom.

THE COURT: No, she did not say that.

A. I don't believe I said that. I believe, you're taking it out of context.

ANDREA ARMSTRONG: Q. And why was it such a period of time in between the incident and the time that you made you report at the police station?

A. Uh, to be honest, Andrea, as soon as the incident happened, we write out for any such major occurrence such as that, we make out an incident report - a full incident report and we have to detail what happened. We also write it in a log book that if we were ever, um, subpoenaed or this ever came up in court, we have a record of what happened.

Q. Do you have that record with you?

A. I do not have - I do not have the log book. Tami, um, because she was senior staff on that day, she was the one that filled out the incident report and she made a copy of that incident report but, yes, it was sure documented that day.

Q. Okay. I think that's all that I have now.

THE COURT: Thank you. Any re-examination?

MS. EBERHARD: No.

THE COURT: Thank you. You are free to go.

A. Thank God. Thank you.

THE COURT: No, that is not me.

A. Oh, thank you.

THE COURT: Would you make a point of not discussing this with anybody...

A. You know....

110.
M. Green - cr-Ex.

THE COURT: ...and you and Tami, I am sure,
will want to discuss it, not all, even between
the two of you.

A. You know - you know, Your Honour, we
don't.

THE COURT: Okay, carry it on then. Thank
you for your attendance. You are free to go.

MS. EBERHARD: That is the Crown's case, Your
Honour.

THE COURT: Thank you. First witness for the
defence. I would make a run for it if I were
you.

MARY LOUISE GREEN: You know, thank you.

THE COURT: First witness for the defence.

ANDREA ARMSTRONG: Okay, just let me get
organized, Your Honour. Um, I think I'll call
Chelsea Voteary, my daughter.

THE COURT: Chelsea - what is the last name?

ANDREA ARMSTRONG: Voteary, V-O-T-E-A-R-Y.

...PAGING CHELSEA VOTEARY.

ANDREA ARMSTRONG: She's only 12. She's very
nervous.

THE COURT: I will do this. Would you step
up here, please, Ms. Voteary?

CHELSEA VOTEARY: May I, please, sit down?

THE COURT: Not yet, but soon. Your full
name?

CHELSEA VOTEARY: Uh, Chelsea Joyce Voteary.

THE COURT: What is your date of birth,
Chelsea?